

REMARKS

Claims 4-13 stand rejected under 35 USC 101 because the Examiner believes that the claimed invention is directed to non-statutory subject matter. Specifically, the Examiner states:

In regard to claim 4, the claim claims a shaped product or structure formed of a coral of the species *Acropora grandis*, and is therefore positively claiming a living organism. The living matter of the present invention is not the result of human intervention it is of nature, which has been unpatentable.

Since applicants clearly claim an article manufactured by man, as defined by the Supreme Court, this rejection should be withdrawn.

35 USC 101 states:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The Supreme Court has “read the term ‘manufacture’ in § 101 in accordance with its dictionary definition to mean ‘the production of articles for use from raw or prepared materials by giving to these materials new forms, qualities, properties, or combinations, whether by hand-labor or by machinery.’” *Diamond v. Chakrabarty* 447 U.S. 303, 308 (1980), citing *American Fruit Growers, Inc. v. Brogdex Co.*, 283 U.S. 1, 11(1931).

Claim 4 claims “A shaped product or structure for medical or related purposes, wherein said product or structure is formed of a coral of the species *Acropora grandis*.” This claim is clearly directed to a product that is the result of human intervention. First, claim 4 requires that the product be shaped . . . for medical related purposes. As described in the specification, shaping the coral for medical related purposes requires human intervention and imparts the raw material with a new form, quality and property. Second, in addition to shaping the product, the product is prepared for medical related purposes. Such preparation can include cleaning, drying and sterilizing the coral to be shaped. Such preparation results in an article which is not “living” contrary to the Examiner’s assertion.

Since applicants positively claim shaped products produced by man, and do not claim a non-modified coral species, the rejection of claim 4 as relating to non-statutory subject matter should be withdrawn. The rejection of claims 5-13, which depend from claim 4 and claim the same type of human modified products, should be withdrawn for at least the same reasons.

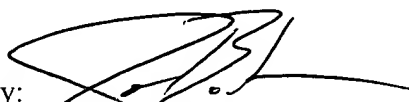
For the foregoing reasons, a notice of allowance allowing claims 4-13 in this application is solicited.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made".

In the event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 229752001000.

Respectfully submitted,

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